

REMARKS

Claims 4-7 are pending in this application. Claim 8 is added. Claims 4, 5 and 7 have been amended to more particularly point out and distinctly claim Applicants' invention. No new matter is added. The features in the claims as amended were present in the originally filed specification.

Claim 6 is indicated in the Office Action as being allowed in its present form.

Claim Objections

Claim 4 is indicated in the Office Action as being allowable if the claim included the features of the claims from which it depends. Accordingly, it is submitted that the claim as amended overcomes the Examiner's objections.

35 U.S.C. 103 Rejections

Claims 5 and 7 are rejected under 35 U.S.C. 103(a) as being obvious over U.S. Patent 5,690,975 to Akahoshi. Applicants herein respectfully traverse the rejection. Claim 5 has been amended such that the viscosity of the pectin at 25 degrees C is no greater than 130. In the event that the Examiner considers maintaining the rejection of claim 5 over the Akahohoshi reference, applicants put forth the following remarks.

The Office Action states that the solution set forth in col. 11, lines 5-20 of Akahoshi discloses the features of claim 5 except that the pectin is low-molecularized to a degree such that the viscosity of a 5% solution at 25 degrees C is no greater than 150 mPa•s. The examiner then opines that the mixture of Akahoshi is considered to have the claimed viscosity of a 5% solution of the pectin at 25 degrees C of no greater than 150 mPa•s. Of course, the claims have been amended such that the viscosity of a 5% solution of the low-molecularized pectin at 25 degrees C is no greater than 130 mPa•s.

It is respectfully submitted that the claims as amended are not obvious over the disclosed solution in Akahoshi on the grounds that the heating of the disclosed 0.35 % pectin solution at 100 degrees C for fifteen (15) minutes in the reference do not provide any suggestion, motivation or teaching for one to arrive at a 5% solution of low-molecularized pectin at 25 degrees C having a viscosity not greater than 130 mPa*s.

In support of applicants argument, the examiner's attention is directed to Table 3 on page 11 of the specification. Simply stated, applicants have arrived at a low-molecularized pectin 5 % solution by heating the pectin solution for 10 minutes at 110 degrees C as seen in Example 5 therein to obtain a viscosity of 126.0 mPa*s. Applicants submit that Akahoshi heating of a 0.35% solution at 100 degrees C for 10 minutes cannot provide a low-molecularized solution of pectin wherein a 5% solution at 25 degrees C has a viscosity no greater than 130 mPa*s.

Accordingly, applicants respectfully request reconsideration and withdrawal of the rejection.

As for the rejection of claim 7 at the top of page 3 of the Office Action applicant argues that the cited portions of Akahoshi do not provide any further teaching, suggestion or motivation for one of ordinary skill in the art to arrive at the present invention which is directed to a stabilizer which contains low-molecularized pectin which is low-molecularized to a degree such that the viscosity of a 5% solution is not greater than 130 mPa*s.

On page 4 of the Office Action, claim 7 is rejected over 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,498,702 to Mitchell. Applicants respectfully traverse the rejection.

Claim 7 as currently amended is now directed to an acidic protein beverage or frozen dessert comprising milk protein such as milk or soybean milk which contains low-

molecularized pectin as an active ingredient wherein the pectin is low-molecularized to a degree such that the viscosity of a 5% solution at 25°C is no greater than ~~150~~ 130 mPa·s. Applicants offer the following remarks in the event that the examiner considers maintaining the rejection of claim 7 over Mitchell.

Applicants submit that amended claim 7 and claim 8 which depends therefrom is not rendered obvious by the Mitchell reference as the reference neither teaches nor suggests the acidic protein beverage or frozen dessert. The claimed acidic protein beverage or frozen dessert are in stark contrast to the jams and jellies of the Mitchell reference. Nothing in the Mitchell reference suggests the use of animal milk or soybean milk which are clearly distinguishable from a gelatin dessert which the examiner interprets as falling under the claimed category of frozen desserts comprising milk protein.

In response to the Examiner's assertion that the claims are allegedly directed to an intended use of the invention applicants cite In re Stencel, 828 F.2d 751, 4 USPQ2d 1071 (Fed. Cir. 1987) in which a claim directed to a driver for setting a joint of a threaded collar was given patentable weight.

Therefore, since there is no teaching, motivation or suggestion to one of ordinary skill to arrive at the present invention based on the teachings of Mitchell, reconsideration and withdrawal of the rejection of claim 7 is requested.

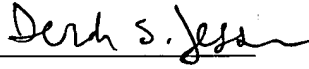
CONCLUSION

For the reasons set forth above, Applicants' present invention, as recited in the amended claims now more clearly and particularly, is patentable. Reconsideration and withdrawal of all outstanding rejections in this case is hereby respectfully requested.

If further matters remain in connection with this case, the Examiner is invited to telephone the Applicant's undersigned representative to resolve them.

Respectfully submitted,

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